RECENT IMPORTANT DECISIONS

ACCRETION—TITLE TO NEW LAND.—Certain lots in Section 31 bounded on one side by a river and on the opposite side by a section line were slowly eaten away and submerged by the action of the water. By this process the river was carried beyond the section line into Section 30 onto the land of P. After a time the river again shifted and gradually restored P's land and built new land in Section 31 where the above mentioned lots had been. As against D who had acquired tax deeds to the new land in Section 31, P brought action to quiet title. *Held,* P had no rights in the new land in Section 31. *Allard* v. *Curran* (So. Dak., 1918), 168 N. W. 761.

P's contention was based on the theory that his land having become riparian by the shifting of the river he was entitled to accretions added thereto as an incident of riparian ownership. There is authority for such view. *Welles* v. *Bailey,* 55 Conn. 292; *Peuker* v. *Canter,* 62 Kan. 363; *Widdecombe* v. *Chiles,* 173 Mo. 195. The contrary view is indicated by *Gilbert* v. *Eldridge,* 47 Minn. 210; *Ocean City Ass'n.* v. *Shriver,* 64 N. J. L. 550; *Hempstead* v. *Lawrence,* 70 Misc. Rep. (N. Y.) 52. In *Volcanic Oil & Gas Co.* v. *Chaplin,* 27 Ont. L. Rep. 34 (1912), the court after reviewing the English and American cases decided in favor of the view expressed in the latter group of cases. See 26 HARV. L. REV. 185; 29 LAW Q. REV. 3. Where a boundary is fixed by the location of a body of water the line may very well be a shifting one as the water recedes or encroaches, but where the boundary is a line in its very nature fixed and unshiftable, as a section line, wholly different considerations arise. The court in the principal case appreciated the distinction. See also *Cook* v. *McClure,* 58 N. Y. 437.

ASSAULT AND BATTERY—SELF DEFENSE.—In an action for assault and battery for damages by H against C, the plaintiff recovered judgment for $150. C pleaded self-defense, and asked the court to instruct the jury "that a person in the lawful defense of his person does not have to wait until his antagonist assaulted him, but that he has the right to bring on the fight if from the actions at the time it shall reasonably appear to him that his antagonist is about to assault him, *although the person so assaulted may have had no unlawful intent in his actions;* and you are charged that you must look at this from the standpoint of the person about to be assaulted." This was refused. *Held,* properly refused. *Chapman* v. *Hargrove* (1918), — Tex. Civ. App. —, 204 S. W. 379.

The court says: "To justify a defensive assault provoked by deceptive appearances the defendant must show not only a situation which creates a reasonable apprehension of danger to himself, *but one for which the assaulted party is culpably responsible";* also the rule is different in civil suits from that in criminal prosecutions. The facts are not set forth, and no authority is cited for this conclusion. Moreover the conclusion seems to be in direct conflict with *Dallas &c. R. Co.* v. *Pettit* (1907), 47 Tex. Civ. App. 354, 105 S.